

Tyrim Gayle # 77732-054

FCI McKean / P.O Box 8000

Bradford, PA 16701

Clerk of the Court  
USDC - Southern District of New York  
U.S. Courthouse / 300 Quarropas St.  
White Plains, N.Y. 10601

RE: United States v. Tyrim Gayle  
Case No.: 7:16-cr-00361-CS

Honorable Clerk,

This letter/motion is in regards to an extension of time to file a Rule 60(b) motion, which is subject to a one-year limit on motions under Federal Rules of Civil Procedure 60(c)(1). The Court denied my letter/motion without prejudice.

Hindsight being 20/20, I have realized that my letter lacked specificity as to what judgement, under Rule 60(b), I was seeking to re-open. Thus, the court's denial is understandable.

That said, I plan on filing a Rule 60(b) motion to re-open the 28 U.S.C. § 2255 motion I filed in this

court on November 23, 2020. I was denied certiorari by the High Court on October 2, 2023, which rendered the judgement final as well as started the clock on the one-year time limit on [Rule 60(b)] motions under FRCP 60(c)(7).

Due to an ~~5~~indefinite institutional lock-down, I am unable to utilize the law library, amongst other things needed, to adequately work on my pending Rule 60(b) motion.

For the reasons stated above, I am seeking an extension of time to file said motion.

Thank you in advance for any time, assistance, and courtesy in this matter.

Respectfully,

September 15, 2024

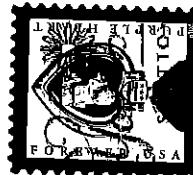
Date

T. Gayle

Tyrin Gayle,

I am sorry to inform Mr. Gayle that an appeal of a judgment does not toll the one-year period for filing a Rule 60(b) motion Pro Se that falls under Rule 60(b)(1)-(3). King v. First Am. Investigations, Inc., 287 F.3d 91, 94 (2d Cir. 2002) (per curiam). The one-year limit is "absolute," Warren v. Garvin, 219 F.3d 111, 114 (2d Cir. 2000), and "the fact that Defendant[] unsuccessfully appealed the judgment[] in this case to the Second Circuit and the Supreme Court does not toll the one-year deadline," S.E.C. v. Amerindo Investment Advisors, Inc., No. 05-CV-5231, 2017 WL 3017504, at \*8 (S.D.N.Y. July 14, 2017). In short, "appellate consideration of an underlying judgment does not extend the time to ask for Rule 60(b) reconsideration of that judgment." Wycie v. Advanced Drainage Sys., Inc., 332 F.R.D. 109, 113 (S.D.N.Y. 2019). Further, in any event, under Federal Rule of Civil Procedure 6(b)(2), "[a] court may not extend this one-year limitation." Trident Groupage v. Royal Coffee, Ltd., No. 94-CIV-6065 LAP, 1996 WL 445356, at \*4 (S.D.N.Y. Aug. 6, 1996). Accordingly, the application is denied. The Clerk of Court is respectfully directed to send a copy of this endorsement to Mr. Gayle.

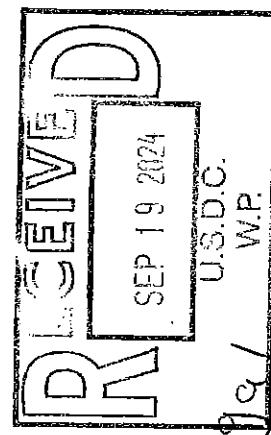
SO ORDERED.



Mail a stamp  
Thinking  
of you

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16 SEP 2024 PM 3 L —

Federal Correctional Institution McKean  
Name: Tyria Gayle  
Reg. #: 77732-054  
P.O. Box 8000  
Bradford, PA 16701



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